

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SIDNEY ITZKOWITZ and CYNTHIA ITZKOWITZ,
on behalf of their minor child, DEVIN ITZKOWITZ,

Plaintiff,

Index No. CV-06
1819

(SJF) (JO)

-against-

THE BOARD OF EDUCATION OF THE LAWRENCE
UNION FREE SCHOOL DISTRICT, and the OCEANSIDE
UNION FREE SCHOOL DISTRICT

STIPULATION

Defendants.
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WHEREAS, Mr. Sidney Itzkowitz and Mrs. Cynthia Itzkowitz, the father and mother ("Parents") of Devin Itzkowitz ("Devin" or "Student"), a child with a disability, requested an impartial hearing on or about January 18, 2005, challenging the Board of Education ("Board") of the Lawrence Union Free District's ("District") Committee on Special Education's ("CSE") recommendation for the 2004 - 2005 school year; and,

WHEREAS, the District is responsible for recommending a free, appropriate public education for Devin; and,

WHEREAS, the parties proceeded to impartial hearing before Hearing Officer Bernard Rostanski, Esq. ("Hearing Officer") on the question of whether the CSE recommended a free and appropriate public education in the least restrictive environment for Devin, and if not, whether the parents were entitled to be reimbursed for their

tuition costs arising from Devin's unilateral placement in CAHAL, a non-public school; and,

WHEREAS, on or about July 12, 2005, the Hearing Officer issued a decision that included, among other items, an award to the parents of tuition reimbursement from the date of the parents' impartial hearing demand through the end of the 2004-2005 school year; and,

WHEREAS, the Board elected not to appeal the Hearing Officer's decision to the Office of State Review; and,

WHEREAS, on or about September 12, 2005, the parents filed a Notice of Claim for reimbursement of reasonable attorneys' fees on the District's Clerk; and,

WHEREAS, thereafter, the parents initiated an action in the United States District Court, Eastern District of New York, Index No. CV-06 1819, seeking an award for reimbursement of reasonable attorneys' fees.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the parties and their respective counsel as follows:

1. The Parties acknowledge that Devin's parents are prevailing parties in the underlying impartial hearing.
 2. The Parents hereby withdraw, with prejudice, their federal action and, upon approval of this Stipulation by the Board, shall provide the Court and District's counsel with written notice of same, namely a Notice of Discontinuance.
 3. In order to resolve this dispute without further expense of administrative time or money, the District agrees to pay the Parents a total of Eighteen Thousand Five Hundred (\$18,500.00) Dollars for reimbursement of the parents' reasonable attorneys'
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fees.

4. The District's Business Office will process payment within 30 days of execution of this Stipulation and approval by the Board, in an amount not more than Eighteen Thousand Five Hundred (\$18,500.00) Dollars, to be made out to "Law Offices of Deusdedi Merced, P.C., as attorney."

5. The parents and their attorneys agree that this Stipulation shall not be relied upon by any party to indicate, establish or support the position of what constitutes a reasonable hourly rate in the District in any future litigation, whether for Devin or any other child.

6. This Stipulation is in full settlement of all claims the parents have or may have regarding reimbursement of reasonable attorneys' fees arising out of the 2004-2005 school year, and contains all the terms and conditions agreed to by the parties hereto, and no other agreement or stipulation, oral or in writing, regarding the subject matter of this Stipulation shall be deemed to exist or bind the parties hereto or to vary any of the terms contained herein.

7. Neither the negotiations preceding this Stipulation, this Stipulation itself, nor the Release provided in Paragraph 8, *infra*, shall constitute or operate as an acknowledgment or admission of any kind by the District that its officers, agents or employees has or have, in their individual or official capacities:

- a. committed any unlawful or discriminatory practice;
- b. violated any statute, rule or regulation; or,
- c. incurred any liability to Devin or his parents.

8. The Parents release the Board, the District, their administrators and employees in their individual and official capacities from any and all obligations for the

2004 - 2005 school year which are or may be due and owing relating to reimbursement of the Parent's reasonable attorneys' fees as of the date of execution of this Stipulation other than those expressly provided for by this Stipulation.

9. The Parents acknowledge that they are aware that by signing this Stipulation and accepting its terms they are waiving any and all rights they have, or may have, to pursue their claims relating to reimbursement of attorneys' fees for the 2004 - 2005 through completion of a Federal action for the period up to and including the date the Parents execute this Stipulation.

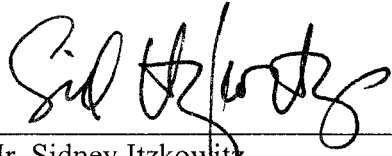
10. This Stipulation shall be irrevocable and not subject to recall or reconsideration pending its approval and acceptance by the Board by a duly adopted resolution, and in the event that the Board declines to approve same, each and every term shall be null and void and the parties reinstated to the positions they held immediately prior to the execution of this Stipulation.

11. The parties acknowledge and affirm that they have read and considered the terms of this Stipulation and sign it knowingly and voluntarily after due consideration and that they have been fully and fairly represented concerning the ramifications of this Stipulation and that they have had its terms and conditions thoroughly explained to them.

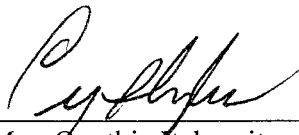
12. The parties agree that the terms and content of the instant Stipulation of Settlement will remain confidential, and that same shall not be shared with anyone except with the parties' tax preparer(s), accountant(s) attorney(s), or unless directed by law.

13. This Stipulation shall be governed by the laws of the State of New York.

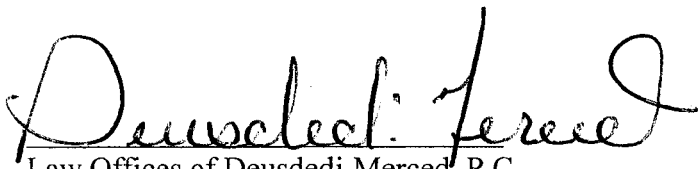
Dated: 09/26/06


Mr. Sidney Itzkowitz,
Father of Devin Itzkowitz


Dated: 09/26/06


Mrs. Cynthia Itzkowitz,
Mother of Devin Itzkowitz

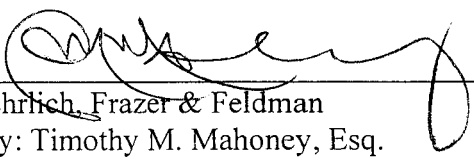
Dated: 10.4.06


Law Offices of Deusededi Merced, P.C.
By: **DEUSEDEDI MERCED**
Attorney for Mr. and Mrs. Itzkowitz,
Parents of Devin Itzkowitz, and for Devin Itzkowitz

Dated: 11-7-06


Asher Mansdorf, President
Board of Education of the Lawrence
Union Free School District

Dated: 11-9-2006


Ehrlich, Frazer & Feldman
by: Timothy M. Mahoney, Esq.
Attorneys for the Lawrence
Union Free School District

So ordered.

12/27/2006.